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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,067	09/17/2001	Antonio Mugica	38146	1267
29569	7590	06/25/2004	EXAMINER	
JEFFREY FURR 253 N. MAIN STREET JOHNSTOWN, OH 43031				PATEL, RAMESH B
		ART UNIT		PAPER NUMBER
				2121

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/682,067	MUGICA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Ramesh B. Patel	2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 May 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 13-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 13-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**Response to the Amendment**

1. Claims 13-16 are presented for examination. Claims 1-12 have been canceled due to the amendment filed on 5/14/2004 and Claims 1-6 have been canceled due to the amendment filed on 10/28/2003.

**Claim Objections**

2. Claims 13-16 are objected to because of the following informalities:

Newly presented claim 13, appears to be not in a proper format as required because claims includes two or more capital letter(s) such as claim 13, lines 2, 3, 5 and 7 include “A” and/or “Said” (should be “a” and “said” respectively). Applicant is reminded that examiner has pointed out these objection and/or remark(s) in the previous office action(s). Applicant is suggested to review all claims and make appropriate correction as required.

Claim 13, line 4, include terms “comprising of a” should be “comprising”.

Claim 13, lines 7-9, include terms “where said” should be “wherein said”.

Claim 14, line 1, include terms “in Claim 13” should be “of claim 13”.

Claim 15, line 5, include terms “comprising of a” should be “comprising”.

Claim 15, line 1, the terms “for to implement” should be “method for implementing”.

Claim 16, line 1, include terms "as in Claim 15 further comprising having" should be "of claim 15 further comprising the steps of:".

Examiner has acknowledged that claim 13 is similar to canceled claim 7 and claim 15 is similar to canceled claim 10, applicant has presented these claims without addressing and/or amending claims except changing the number. The above objection was addressed in the previous office action(s). Applicant is suggested to review previous office action and make appropriate correction as required.

**Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recite the limitation "said organs" in line 7. There is insufficient antecedent basis for this limitation in the claim. Also, the terms "simulate an organic relationship" appears to be missing relationship between terms and/or not clear to interpret as to what it meant by simulate an organic relationship.

Claims 14 and 16 recite the limitation "said network forming controllers of complexity" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. Also, claimed language presented in claims 14 and 16 appears to be inappropriate and/or missing some terms, it is not clear as to what is meant in the stated language.

Regarding claims 14 and 16, line 3, the phrase "or the like" and/or "said control tissue performing like said control cells" and/or "for example" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claims 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: "can communicate across said network forming controllers of complexity higher than said control cells and with said control tissue performing like said control cells only with higher processing resources derived from the joining of the processing resources of all involved said control cells"; examiner is not sure what it meant by stated language and how they are related to each other with proper meaning and/or missing some language and/or not clear as to what it meant.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: "a method for to implement any control system, regardless of complexity, based on a structure comprising interconnected identical control devices"; examiner is not sure what it meant by stated language and how they are related to each other with proper meaning and/or missing some language and/or not to clear as to what it meant.

Claim 15-16 provides for the use of a method for implementing control system, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced. Claims 15-16, includes "having...." to include element(s) as stated in claims 13-14.

Claims 15-16 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Examiner has acknowledged that presented claims are similar to claims 1-12 and includes similar informalities which were addressed in previous office action(s); however, these claims are presented without any correction(s).

Applicant is requested to review all claims and make appropriate correction as required.

**Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fung (US Patent 6,079,025).

As to claims 13 and 15, Fung teaches the invention including a control system and a method for implementing any control system, comprising: a plurality of control cells is taught as a plurality of controllers and peripheral devices connected to a computer system (see, figure 1 and col. 4, lines 35-58); a data connection means between said control cells is taught as the plurality of controllers are connected with each other with bus (see, figure 1 and col. 4, lines

35-58); said control cells are network nodes that are physically identical and comprising processing means, a memory means and a communications means (see, abstract and figure 1 and col. 14, lines 35-58); said control cells are interconnected for forming a control organ as shown in figure 1 which shows plurality of control cells are connected in to form a complex unit or a organ (see, abstract and figure 1); said control cells can be configured for specific operations and a plurality of control cells may collaborate in the fulfillment a task is taught as the computer system for a activity sensing and power reduction and conservation apparatus having computer system has resources including a processor, a memory and an input/output device and an operating system for controlling resources (see, abstract); said control cells working in unison to form a complex unit is taught as and as shown in figure 1 which shows plurality of control cells are connected to form a complex unit (see, abstract and figure 1).

As to claims 14 and 16, Fung teaches the control system and the method further comprising said control cells which can communicate across said network and at a logic level is taught as computer is connected to a plurality of control cells as plurality of controllers and peripheral devices through bus to form network for communicating with each other (see, abstract and col. 4, lines 35-58).

Art Unit: 2121

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2121

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh B. Patel whose telephone number is 703-308-6673. The examiner can normally be reached on M-Th; 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ramesh B. Patel  
Primary Examiner  
Art Unit 2121  
6/24/04

rp